IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 11035 of 2007(L)

PETITIONER:

JOSE MATHEW, KOLANCHERY HOUSE,
MANIKAMANGALAM P.O., KALADY,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.K.MUHAMMED
SRI.IYPE JOSEPH

RESPONDENTS:

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1. THE PRESIDENT,
KALADY GRAMA PANCHAYATH, KALADY,
ERNAKULAM DISTRICT.

2. KALADY GRAMA PANCHAYATH,
REPRESENTED BY THE SECRETARY, KALADY,
ERNAKULAM DISTRICT.

BY ADV. SRI.DINESH MATHEW J.MURICKEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J

W.P.(C) .11035 OF 2007

Dated this the 10th day of April, 2007

JUDGMENT

Mr.P.K.Muhammed, counsel for the petitioner submits that the item having been included in the Agenda of the Panchayat Board Meeting and having received the support of a majority of the members of the Board, it was totally outside the powers of the Secretary to have passed orders himself after the adjournment of consideration of the item on the Agenda by the Board.

2. Sri.Dinesh Mathew Muricken, standing counsel for the respondent panchayat, drew my attention to Ext.R2(c) and Ext.R2(b) letter by which the District Collector directed the Secretary that licence shall be issued to the petitioner, only subject to the petitioner complying with all the 13 conditions in Ext.R2(c) order. Learned counsel brought to my attention paragraph 5 of the counter affidavit wherein it is stated

that, at least, four conditions in Ext.R2(c) were violated by the petitioner and therefore, Ext.P10 order was perfectly justified.

3. Mr.P.K.Muhammed, counsel for the petitioner took exception to the case of the Secretary that the four conditions referred to in paragraph 5 of the counter affidavit had not been complied with.

4. Whatever that be, I find some force in the contention of the petitioner that the issue having been placed before the Board, it was not proper on the part of the Secretary to have taken a decision by himself.

5. In such circumstances, Ext.P10 is quashed and the Secretary is directed to place the issue before the next meeting of the committee of the Kalady Grama Panchayat. The panchayat will, while adopting a decision, take into account Ext.R2(b) letter from the District Collector, Ext.R2(c) order as well as the report of the Secretary that the

petitioner has violated 4 of the 13 conditions in Ext.R2(c). A fresh decision, as indicated above, will be taken by the committee in its next meeting. If the petitioner is desirous of having a hearing opportunity before the committee, it is open to him to make a request in that regard, in which case, the same will be granted.

Writ petition is disposed of as above.

Sd/-
PIUS C. KURIAKOSE
(JUDGE)

sk1/-

//true copy//

P.S. to Judge.

PIUS C. KURIAKOSE, J

W.P.(C) .11035 OF 2007

JUDGMENT

10th April, 2007